

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL, 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, JUNE 19, 2008 – 10:00 AM**

BOARD MEMBERS PRESENT

Peter Partington, City Engineer
Bob Dunckel, Assistant City Attorney
Tom Terrell, Public Works Facilities Manager
Mark Darmanin, Utilities Distr. & Collections Manager
Tony Irvine, Surveyor
Anthony Fajardo, Planner III

STAFF

Victor Volpi, Senior Real Estate Officer
Diana Alarcon, Assistant Parking Services Manager
Carol Ingold, Parks & Recreation Supervisor
Debbie Hernandez, Community Inspections Supervisor
Hilda Testa, Recording Clerk, Prototype, Inc.

CALL TO ORDER

Mr. Partington called the meeting to order at 10:16 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public rights-of-way.

Following roll call, it was determined that a quorum was present.

ITEM ONE: **APPROVAL OF MAY 15, 2008 MINUTES**

A committee member suggested "Parks and Rec" be added following Kim Clifford's name under Board Members Present. Mr. Darmanin requested on Page Five, the last sentence, the word "easement" be changed to "utility."

Motion made by Mr. Irvine, seconded by Mr. Darmanin, to approve the minutes of the May 15, 2008 meeting, with changes. In a voice vote, the motion passed unanimously.

ITEM TWO: **MOT LICENSE AGREEMENT**

ADDRESS OR GENERAL LOCATION: 303 AND 321 NORTH FORT LAUDERDALE BEACH BOULEVARD

Mr. Volpi introduced this item stating that A-1-A Trader, LLC would like a positive recommendation to temporarily close a portion of Granada Street (from N. Atlantic Boulevard, east ½ of the block), until February 2009, to facilitate the construction of

improvements food the Yankee Trader. This was discussed at the May 15, 2008 Property and Right-of-Way meeting and was deferred to get further information such as: other closures in the area, life guard parking, reimbursement for public parking, and a more concise plan for the traffic circulation.

Mr. Joshua Bailey, Falkanger, Snyder, Martineau & Yates provided a brief description of the area, and requested a 350 foot portion of the road along the property line be temporarily closed during the time of construction. Mr. Bailey presented a traffic circulation plan including pedestrian crossings.

Mr. Bailey explained other closures included a lane closure on Bayshore, to expire in December 2008. Mr. Dunckel asked for clarification as the closure appeared to be a sidewalk. Mr. Bailey stated the sidewalk was closed at all times, with periodic closures of the lane. Mr. Bailey added there was also a sidewalk closure at the Trump Hotel.

Mr. Bailey demonstrated the requested life guard parking in the construction staging plan, and noted the space would be located at the corner of A-1-A and Granada Street.

Mr. Partington asked if people should be detoured off Bayshore, and requested further information on the timeline for the project. Mr. Bailey stated ideally the closures would begin in July. Mr. Dunckel stated July was not likely, and felt September was more realistic due to a backlog of MOTs and revocable licenses being worked.

Ms. Tracy Lautenschlager, Greenberg Traurig, stated the original closure request had been written for nine months, but would probably be closer to a year. Mr. Robert Brindley, Ernest Jones, stated Dennis was comfortable with the project and felt any delays would not be due to technical concerns. Mr. Partington explained the process of working requests through the system would be the hold up. Mr. Jeff Falkanger, Falkanger, Snyder, Martineau & Yates, provided all paperwork had been turned in. Mr. Dunckel congratulated the team for the superior quality of the package and information.

Ms. Alarcon reminded the Committee the meters needed to be included in the revocable license. Mr. Partington asked for information on development north of Bayshore. Mr. Bailey stated the development was for the W Hotel, and the road would be back up in December of 2008. Ms. Alarcon confirmed Bayshore was currently open.

Mr. Partington asked if there had been issues raised by people to the west using Granada for pedestrian traffic. Mr. Brindley explained during road closures signs were placed for trucks going east on Granada, and provided graphics showing the pedestrian walking area, including a handicap crosswalk. There followed a brief discussion and description of the graphics provided by Mr. Brindley.

Mr. Dunckel expressed concern with private property being used as a public pedestrian crossing. Mr. Partington asked if pedestrian access could remain open along the north

side of Granada. Mr. Brindley stated it was not possible to keep the access open. Ms. Lautenschlager stated a sign could be added stating the road was closed and providing directions to the Seville sidewalk. Mr. Dunckel suggested a temporary private pedestrian easement be secured. Mr. Brindley felt a pedestrian easement could be a safety concern.

Ms. Lautenschlager described a good working relationship with the Birch Condominium owners, and described the outreach plan by mailing to owners within 300 feet of the project. Mr. Partington agreed a temporary easement across the parking lot would be a good idea. Ms. Lautenschlager stated she was unsure if the temporary easement could be obtained, but an attempt would be made. Ms. Lautenschlager offered a supplement to the signage on the western edge of Granada to inform pedestrians.

Mr. Dunckel explained the agreement concerning the pedestrian overpass, and stated the City Manager had the authority to allow a temporary closure. Mr. Dunckel noted a memo would go to the City Manager with a recommendation from the Committee. Mr. Dunckel added the closure could also be added to the revocable license.

Mr. Brindley confirmed the construction would not affect the sidewalk on the west side of A1A. Mr. Dunckel referred to the provided narrative, and requested clarification regarding the employee parking plan. Mr. Dunckel stated the expectation would be for employees to park on premises or make other arrangements. Utilizing provided maps, Mr. Brindley clarified the parking plan, confirmed the parking would be sufficient, and reminded the Committee the multi-level parking garage would be available.

Mr. Darmanin requested information on utilities access. Mr. Brindley confirmed utilities access had been provided, and added there would be no construction parking to allow for emergency vehicles and inspections. Mr. Brindley also confirmed construction storage and staging would be provided.

Mr. Dunckel expressed reluctance to approve in the absence of a private pedestrian easement leading to Seville. Mr. Partington also expressed concern, but felt the project should be allowed.

Motion made by Mr. Irvine, seconded by Mr. Darmanin, to recommend approval of road and overpass closures as presented with the provision that a private pedestrian access from Granada to either Seville or Bayshore Drive be obtained, or a waiver by the condos immediately west of the project.

Mr. Partington opened the motion for discussion. Mr. Terrell agreed the pedestrian access was a valid issue, but did not wish to specifically require a waiver and not allow the project to move forward. Mr. Irvine stated the Committee was simply making a recommendation, and the provision could be removed later if necessary.

Mr. Dunckel stated the motion would provide a satisfactory solution for the properties to the west, but did not solve the problems for other property owners. Mr. Irvine agreed to amend the wording of the motion to include Birch Road.

Amended Motion made by Mr. Irvine, seconded by Mr. Darmanin, to recommend approval of road and overpass closures as presented with the provision that a private pedestrian access from Birch Road to the project be obtained, or a waiver by the condos immediately west of the project.

Ms. Lautenschlager noted the applicant would be in a position to accomplish something outside of their legal control, and the increased public safety concern resulting without the road closure. Ms. Lautenschlager requested the Committee consider the project going forward in a way that protects the public safety. Ms. Lautenschlager asked the Committee to reconsider the wording of the provision to avoid endless negotiations which would delay the project.

Mr. Dunckel asked if there was a fee simple title to the area bordering Seville, and if a safe pedestrian environment could be created on the westernmost boundaries of the project. There followed a brief discussion of options utilizing the graphics and maps provided by the applicant. Mr. Dunckel suggested deferring the item to the end of the meeting to allow the applicant additional time to look at options.

Mr. Darmanin mentioned a letter of understanding from the local residents. Ms. Lautenschlager felt the residents had a very narrow view of the overall impact, and stated notice would absolutely be provided, but expressed concern with giving the residents "veto power." Mr. Irvine reminded the applicant any resident had the right to go to the Commission and stop the project, and covering the issue in the Committee's recommendation would potentially save the applicant from a problem later.

The amended motion was not voted on to allow the applicant time to provide options to the Committee.

Motion made by Mr. Irvine, seconded by Mr. Terrell, to table the issues to the end of the meeting.

ITEM THREE

PRIVATE WALL ON EASEMENT

ADDRESS OR GENERAL LOCATION: 1224 SEMINOLE DRIVE

Mr. Volpi introduced this item stating Tim Ingham and Julie Pabst would like a positive recommendation to place a wall on a 4-foot storm easement along their north property line. There does not appear to be any structures in this easement. However, the abutting property owner, to the north, also has a 4-foot easement on his south property

line, which contains a 10-inch PVC pipe as an outfall. The wall will remain 2-feet from the pipe at all times. The engineer is using auger cast piles to assure that any excavation to repair or replace the pipe will not move the wall.

Mr. Alberto Comas, Architectural Design Studio, Inc., corrected the record, stating the wall is on heli piles, which are similar to auger cast piles. The piles would be on four inch diameter steel pipe with a screw on the end, to be driven down to the core bed. This piling would have less tendency to displace the ground and uses less pressure than the auger piling. Mr. Comas stated the wall would be a six and a half foot tall block wall with decorative piers, and would be two feet from the existing pipe.

Mr. Dunckel asked for clarification on the property lines and the placement of the wall relative to the property line. Mr. Comas stated the wall would be six inches from the property line. Mr. Darmanin expressed concern with the easement allowed for utilities maintenance, and did not feel he could endorse a project that would impede the ability for future utility work.

Mr. James LaVallee, General Contractor, explained the pipe did include corrugated metal approximately 20 feet to the east of the manhole cover. Mr. Darmanin reminded the applicant the revocable license would require the removal of the wall and pilings if necessary for future utility work. Mr. Dunckel added the applicant would also be responsible for additional expense required by removal of the wall. Mr. LaVallee confirmed the owner was aware of the potential risk.

Mr. Terrell suggested a requirement to line the pipe with fiberglass before the wall was constructed. Mr. Dunckel was not in favor of allowing the wall being placed in such close proximity to the line and preferred seeing the wall placed on the southernmost end of the easement area. Mr. Dunckel expressed concern regarding the Committee continuing bad precedents.

Mr. Irvine asked the approximate cost of the wall being installed. Mr. LaVallee estimated \$30,000. Mr. Irvine expressed concern over the "political will" requiring the applicant to replace the wall at a much greater cost later in order to improve the sewers. Mr. Partington asked Mr. Darmanin what distance would make the project feasible, to which Mr. Darmanin replied the current eight feet did not provide enough room, and the wall would need to be placed outside the easement. Mr. Darmanin stated he would be more amenable to changing the material to something more reparable, for instance, wood or chain link.

Mr. Partington asked what the cost would be to replace the ten inch pipe. Mr. Darmanin estimated \$100 to \$150 per foot, approximately \$20,000. Mr. Partington asked if Mr. Darmanin would feel differently if the pipe were brand new. Mr. Darmanin stated,

depending on the material, the life expectancy of new pipe would be 30 to 50 years. Mr. Darmanin stated there would still be no access to maintain the pipe. Mr. Darmanin stated he would have more confidence in the structural integrity of the pipe, but still a problem with root intrusion, joints, and other possibilities for problems.

Mr. Volpi asked why the wall could not be placed outside the easement, on the property. Mr. Comas explained the owner was not interested in giving up five feet of land to the neighbor. Mr. Patrick Kelley, Kelley, Herman & Smith, representing the applicant, stated the applicant had been informed of the potential responsibility for costs associated with removal of the wall if necessary. As the owners were willing to bear the expense, Mr. Kelley did not feel the City should have a problem from that standpoint. Mr. Darmanin stated the initial costs of removing the wall, and the attempts to recover would fall on the citizens. Mr. Darmanin did not feel it was in the best interest of the City to approve.

Mr. Irvine stated the residents could sell the property and the next owner could use a political avenue to avoid payment of restoration. Mr. Partington felt the revocable license was enforceable, to which Mr. Irvine stated there was no will for enforcement and did not feel the burden should fall to the City. Mr. Kelley stated the City would never be under any obligation to replace the wall, and demolition would be the only burden.

Mr. Dunckel expressed he would be more amenable to the project if the material were an aluminum picket fence with landscaping rather than concrete. Mr. Partington asked if the building permit could be allowed if the fence were placed on the property line. Mr. Darmanin stated the permit could be allowed if the wall did not extend into the easement. Mr. Partington agreed a less substantial building material would be more likely to be amenable to the Committee.

In response to questions by Mr. Volpi, Mr. Dunckel confirmed the revocable license would be recorded on the front end, but a lien would not be filed until after notice of fees dues were presented to the owner. Mr. Dunckel stated a lien would be on file so that successors in title would be on notice of the potential for a lien.

Mr. Darmanin noted a recent case where an easement was built upon, and Mr. Dunckel had opined if the storm drain underneath was in any way deemed to be negligent that the burden of repair would fall upon the utility. Mr. Dunckel stated that case involved damaged brick pavers in the easement area. If the pavers fell outside the easement area, and assuming the damage was due to deterioration of the City drainage line, the City would bear responsibility. Mr. Darmanin asked if the corrugated drainage line in this case failed, causing damage to the wall, would the City be responsible. Mr. Dunckel stated the City easement rights would be superior and the applicant would bear the costs. Mr. Irvine asked about the wall at the front of the property, outside the

easement area. Mr. Dunckel stated in that case the storm drain would be a liability for the City.

Mr. Comas asked if the Committee would entertain the idea of keeping the piers with a wood fence in between. Mr. Dunckel stated changing the building materials would cause a much lesser problem, but reiterated the fence needed to be moved back.

Mr. Partington summarized the Committee's concerns regarding the enforcement of the revocable license. Mr. Terrell stated the applicant would need to come back with drawings using different materials for the fencing. Mr. Darmanin confirmed for Mr. Volpi the City would be liable if there was damage to the wall in the proposed location from maintenance to the pipe.

Motion made by Mr. Dunckel, seconded by Mr. Darmanin, to continue the issue.

Mr. Irvine informed the applicant the Committee would want to see structural details on a new proposal.

By voice vote, the motion passed unanimously.

The Committee reintroduced Item Two for discussion

ITEM TWO: **MOT LICENSE AGREEMENT**

ADDRESS OR GENERAL LOCATION: 303 AND 321 NORTH FORT LAUDERDALE BEACH BOULEVARD

Ms. Lautenschlager stated the requested pedestrian way on the south side of the parcel could not be done during the construction of the building. Ms. Lautenschlager stated that, according to the general contractor, there would need to be a dig to install spread footers, and there is simply not enough room to safely do the underground work and to have an adjacent five foot pedestrian way.

Ms. Lautenschlager continued there were other impediments including trees in the area identified as protected. The construction fence had already been placed five feet inside the property line to preserve the trees and landscaping identified as protected during the construction. Ms. Lautenschlager stated even if the neighbors would grant permission, there were obstructions, including air conditioning systems, and a grade separation of approximately three feet.

Ms. Lautenschlager proposed the inconvenience would add a 700 foot walk for pedestrians, which totals less than one and a half minutes walking time to the beach. Ms. Lautenschlager stated the applicant would prefer to eliminate the inconvenience to

the pedestrians, but with the constraints to the site and the methodology of construction, it could not safely be done. Mr. Partington asked if a path down Granada Street was possible. Mr. Brindley stated the size of the cranes and the outriggers would be approximately 40 to 50 feet wide, which would utilize the entire width of the street.

Mr. Partington reminded the applicant the residents would be inconvenienced for approximately a year for the construction, and adding to that an extended walk to the beach. Mr. Bailey stated the worst case would be the additional 700 feet added to the walk to the beach. Ms. Alarcon noted three businesses would also be affected. Ms. Lautenschlager confirmed the options were not ideal for either side, but there was no other option available.

Mr. Dunckel suggested a golf cart shuttle be provided through the site, or around the site by way of Bayshore. The Committee held a brief discussion on the transit options. Ms. Lautenschlager stated she was amenable to working with the Committee on transit options, but would need to present the suggestion to the applicant before the exact parameters were determined.

Mr. Darmanin brought up the previous discussion of obtaining a waiver from the neighbors, and asked if the Committee would be comfortable with the applicant providing proof of contacting the adjoining buildings, and agreement by a simple majority.

Mr. Irvine requested to remove the requirement for a waiver from the original motion to allow the applicant to come up with a solution. Mr. Darmanin suggested the motion should be amended to say an attempt to contact the buildings in the stated area be made, and a majority agreement that a pedestrian access was not necessary.

The Committee discussed options for wording of the motion. Mr. Dunckel suggested the motion be taken off the table and the discussion continue regarding transit options. The Committee discussed feasible options for transit to and from the beach, to include appropriate signage.

Motion made by Mr. Irvine, seconded by Mr. Dunckel, to withdraw the original motion, which motion was not called for a vote.

Motion made by Mr. Irvine, seconded by Mr. Darmanin, to recommend approval of the road and overpass closures as submitted, for the periods of time requested, with the condition that pedestrian access to the beach from Granada Street properties lying between the project and Birch Road be alleviated either through easements, walkways, or some other transit mechanism during daylight hours.

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Mr. Dunckel stated signage would be necessary stating the transportation would stop at sunset. Mr. Partington stated the approval would be subject to preserving convenient pedestrian access to the beach, or providing a transit solution during daylight hours.

In a show of hands vote, the motion passed unanimously.

There being no further business to come before the Committee the meeting adjourned at 11:44 a.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]